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IN THE SUPREME COURT  
STATE OF ARIZONA

In the Matter of:	)	
	)	
PETITION TO AMEND RULES	)	Supreme Court No. R-18-0028
26.11, 29, 30 AND 41, ARIZONA	)	(expedited consideration
RULES OF CRIMINAL	)	requested)
PROCEDURE	)	
_____	)	

Pursuant to Rule 28 of the Rules of the Supreme Court, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to amend Rules 26.11, 29, 30 and 41 of the Arizona Rules of Criminal Procedure as proposed in Appendix A. The amendment modifies the rules to conform to changes adopted by Laws 2018, Chapter 83, HB 2312 (“HB 2312), which becomes effective August 3, 2018.

**I. Background and Purpose of the Proposed Amended Rules.** HB 2312 originated with the Post-Conviction Actions Subcommittee of this Court’s Fair Justice for All Task Force and was approved for filing by the Arizona Judicial Council in October, 2017. The legislature modified the original proposal to some extent, however the amendments to ARS § 13-907 still meet many of the original

objectives of clarifying and simplifying the process of setting aside a judgment of guilt, standardizing the criteria judges are to use in deciding whether to set aside a conviction, providing guidance to those affected by the set aside process and informing the public about the consequences of a set aside.

The subcommittee included judges, probation, prosecutors, defense bar, victim advocates, law enforcement and members of the public with an interest in the set aside process. The subcommittee also took public testimony. After offering recommendations on the statute that went to the Task Force on Fair Justice, AJC and legislature, the subcommittee tackled the applicable rules including the forms.

One modification to the current process made by the HB 2312 is the requirement that the court notify defendant of the right to apply for a set aside at sentencing, rather than upon discharge from probation. Accordingly, petitioner recommends an amendment to Rule 26.11 that lists the duties of the court after pronouncing sentence.

To further clarify and simplify the process for judges, defendants, and their attorneys, prosecutors, law enforcement and the Clerk of Court, the petitioner is proposing that the Court split the rule addressing the set aside process from the process for requesting restoration of civil rights. They are two separate and distinct processes, embodied in different statutes. Accordingly, petitioner proposes new

Rule 30 addressing the restoration process, which mirrors the process for requesting a set aside.

The proposed Rules 29 and 30 picks up some of the current statutory language outlining the set aside and restoration of civil rights process. Neither the legislature nor the subcommittee addressed the substantive law relating to Restoration of Civil Rights. The subcommittee is expected to begin that process at its July meeting. Therefore, while the proposed Rule 30 attempts to address procedural matters and to replicate the process enacted by HB 2313 and the proposed Rule 29, the petitioner does not recommend any change to the law on Restoration of Civil Rights.

Petitioner is proposing, in order to provide guidance to the court and parties, time frames in which to file applicable pleadings and the responsibilities in meeting victims' rights.

The proposed amendments pick up the statutory factors the court must consider in determining whether to grant an application for set aside. The subcommittee felt that considering a number of pro se litigants who might file an application, including these factors in the rule would be beneficial. The proposed Rule 29.6 b and c on denial of the application and subsequent re-application also includes the statutory language.

In addition, petitioner proposes that the court delete the combined application for set aside and for restoration of civil rights Form 21 and adopt separate application forms and order forms for each process. Petitioner requests renumbering of Form 21(a) as Form 21 (application by victim of sex trafficking to vacate a conviction under ARS § 13-907.01), and adoption of the following new forms as shown in Appendix A:

- 31(a) Application to Set Aside Conviction and Restore Gun Rights,
- 31(b) Order Regarding Application to Set Aside Conviction and Restoration of Gun Rights
- 32(a) Application to Restore Civil Rights and Gun Rights
- 32(b) Order Regarding Application to Restore Civil Rights and Gun Rights

**II. Preliminary Comments.** This petition has not been sent to the court community for pre-filing comments because of its technical nature and due to the short period of time since the bill's enactment.

**III. Request for Emergency Adoption.** HB 2312 was enacted with an effective date of August 3, 2018. Petitioner therefore requests expedited adoption of the proposed amended rule to conform with the effective date, and with a formal comment period to follow, as permitted by Supreme Court Rule 28(G).

RESPECTFULLY SUBMITTED this 22nd day of May, 2018.

By /S/

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## APPENDIX A

(language to be deleted is shown with ~~strike-through~~, new language is underlined)

### Arizona Rules of Criminal Procedure

#### Rule 26.11. A Court's Duty After Pronouncing Sentence

(a) **Disclosures.** After pronouncing judgment and sentence, the court must:

(1) inform the defendant:

(A) of the right to appeal the judgment, sentence, or both;

(B) of the right to seek post-conviction relief; ~~and~~

(C) that the failure to file a timely notice of appeal or timely notice of post-conviction relief will result in the loss of those rights; and

(D) of the right to apply to have the judgment of conviction set aside.

(2) advise that:

(A) if the defendant is indigent, as defined in Rule 6.1(b), the court will appoint counsel to represent the defendant on appeal; and

(B) if the defendant is unable to pay for certified copies of the record on appeal and a certified transcript, the county will provide them; and

(3) advise that the defendant may waive the right to appellate counsel by filing a written notice no later than 30 days after filing the notice of appeal.

(b) **Written Notice.** The court must provide the defendant with a written notice of the rights set forth in (a) and the procedures the defendant must follow to exercise them. The record must show affirmatively the defendant's receipt of the notice.

#### Rule 29. ~~Restoring Civil Rights or Vacating~~ Setting Aside a Conviction

##### Rule 29.1. Grounds; Notice

(a) **Generally.** A person who has completed probation or a sentence may ~~ask to restore civil rights, to withdraw a plea of guilty or no contest, or~~ apply in writing to the court to set aside a

conviction under A.R.S. § 13-907. ~~The probation officer, or the court if there is no probation officer, must provide a person with written notice of this opportunity before the person's absolute discharge at the time of sentencing.~~

- (b) **Sex Trafficking Victims.** Under A.R.S. § 13-907.01, a sex trafficking victim may ~~request the sentencing~~ apply in writing to the court to vacate the victim's conviction under A.R.S. § 13-3214, or a city or town ordinance that has the same or substantially similar elements, if the offense was committed before July 24, 2014.

## **Rule 29.2. Application**

- (a) **Contents.** An application under this rule must include the applicant's name, address, date of birth, and signature, the offenses for which the applicant was convicted, the place and date of conviction, the sentence imposed, ~~a statement about the status of victim restitution payment and other court-ordered monetary obligations,~~ and the relief the applicant is requesting. The applicant must attach to the application any documents and affidavits required by law and may attach other supporting documents and affidavits.
- (b) **Place of Filing and Filing Fee.** The applicant must file an application with the court ~~specified by law that sentenced the applicant.~~ The ~~court clerk~~ may not charge a fee for filing or docketing an application.
- (c) **Processing of Application.** ~~The court having jurisdiction must process the application. It must send a copy of the application to the applicable prosecuting agency no later than 10 days of filing and, if it concerns a felony conviction, to the Attorney General.~~
- (d) **Victim Notification.** The victim has the right to be present and be heard at any proceeding in which the defendant has filed an application to have a judgment of conviction set aside. If the victim requested postconviction notice, the prosecuting agency must provide the victim with notice of the defendant's application and of the rights provided to the victim. The prosecuting agency must provide notice to the victim of the opportunity to be heard if the victim requested post-conviction notification.

## **Rule 29.3. Hearing Date**

~~The court must set a date for hearing the application that is at least 30 days after the application is filed.~~

## **Rule 29.429.3. State's Response**

~~At least 10 days before the hearing,~~ No later than 60 days after the application is filed, the State and victim may file a written response stating ~~any~~ their reasons for opposing the application, if any. The State must send a copy of the response to the applicant's attorney or the applicant if

~~unrepresented. If the State does not oppose the application or does not timely respond, the court may grant the application without a hearing and may enter an order vacating the conviction.~~

#### **Rule 29.4. Reply**

The applicant may file a reply but must do so no later than 15 days after the State's response is filed.

#### **Rule 29.5. Hearing**

On either party's request or on its own motion, the court may set a hearing. The hearing must be held no later than 120 days after the application's filing unless the court finds good cause for an extension. The prosecuting agency must provide post-conviction victim notice of the hearing date and the right to be heard, if the victim requested notification.

#### **Rule 29.529.6. Disposition**

**(a) Considerations.** In determining whether to grant an application, the court must consider the following factors:

- (1) the nature and circumstances of the offense the conviction is based on;
- (2) the applicant's compliance with the conditions of probation, the sentence imposed, and the Department of Corrections' rules or regulations, if applicable;
- (3) any earlier or later convictions;
- (4) the victim's input and the status of victim restitution, if any;
- (5) the time that has elapsed since the completion of the applicant's sentence;
- (6) the applicant's age at the time of conviction; and
- (7) any other factor relevant to the application.

**(b) Denial.** If the court denies an application, its order must state the reasons for the denial, and must specify any statutory requirement the applicant has not met.

**(c) Subsequent Application.** If an application is denied, the applicant may file a new application after satisfying all requirements or after resolving any other reason for denial.



**(d) Order.** The clerk must transmit the order to the applicant, the prosecutor, and the Department of Public Safety.

## **Rule ~~29.6~~29.7. Special Provisions for Sex Trafficking Victims**

- (a) **Confidentiality.** If a court grants an application submitted by a sex trafficking victim, all paper and electronic records of the vacated conviction become confidential. The record may be disclosed upon request to the sex trafficking victim but otherwise may be disclosed only by court order for good cause. The court must order that the pertinent law enforcement agencies and prosecuting agencies make notations in their records that the conviction was vacated and the applicant was a crime victim.
- (b) **~~The Order's Transmission~~ Order.** The clerk must transmit ~~a copy of an~~ the order vacating the conviction of a sex trafficking victim to the arresting agency, the prosecuting agency, the Department of Public Safety, and the ~~victim~~ applicant.

## **[new] Rule 30. Restoring Civil Rights**

### **Rule 30.1. Grounds; Notice**

**(a) Automatic Restoration for First Offense.** A person who has not previously been convicted of any other felony must automatically be restored any civil rights that were lost or suspended by the conviction, except the right to possess or carry a gun or firearm, if the person:

- (1) completes a term of probation or receives an absolute discharge from imprisonment; and
- (2) pays any fine or restitution imposed.

**(b) Second or Subsequent Offense:** A person who has been convicted of 2 or more felonies and whose period of probation has been completed or has received an absolute discharge from imprisonment may have any civil rights that were lost or suspended by the conviction restored by the court. A person whose civil rights were lost or suspended by 2 or more felony convictions in a United States District Court may apply to the superior court in the county in which the person now resides to have the person's civil rights restored.

**(c) Gun or Firearm Rights.** To restore the right to possess or carry a gun or firearm the person must file an application under Rule 30.2. The following persons may not file to restore the right to possess a gun or firearm:

- (1) a person convicted of a dangerous offense under A.R.S. § 13-704;

(2) a person convicted of a serious offense as defined in A.R.S. § 13-706 until 10 years from the date of discharge from probation or from the date of absolute discharge from prison; or

(3) a person convicted of any other felony offense until 2 years from the person's discharge from probation or absolute discharge from prison.

### **Rule 30.2. Application**

**(a) Contents.** An application under this rule must include the applicant's name, address, date of birth, and signature, the offenses for which the applicant was convicted, the place and date of conviction, the sentence imposed, the status of victim restitution payment and other court-ordered monetary obligations, and the relief the applicant is requesting. The applicant must attach to the application any documents and affidavits required by law and may attach other supporting documents and affidavits.

**(b) Place of Filing and Filing Fee.** The applicant must file an application with the court that sentenced the applicant. An applicant who was convicted in a United States District Court may apply for restoration of rights in the superior court in the county where the person now resides. The clerk may not charge a fee for filing an application.

**(c) Processing of Application.** The court must send a copy of the application to the applicable prosecuting agency no later than 10 days of filing.

**(d) Victim Notification.** The victim has the right to be present and be heard at any proceeding in which the defendant has filed an application to have civil rights restored. If the victim in a state court matter has requested post-conviction notice, the prosecuting agency must provide the victim with notice of the defendant's application and the rights provided to the victim. The prosecuting agency must provide notice to the victim of the opportunity to be heard if the victim requested post-conviction notification.

### **Rule 30.3. State's Response**

Within 60 days after the application is filed, the State and victim may file a written response stating their reasons for opposing the application, if any. The State must send a copy of the response to the applicant's attorney or the applicant if unrepresented.

### **Rule 30.4. Reply**

The applicant may file a reply but must do so no later than 15 days after the State's response is filed.

## **Rule 30.5. Hearing**

On either party's request or on its own, the court may set a hearing. A hearing must be held no later than 120 days after the application's filing, unless the court finds good cause for an extension. The prosecuting agency must provide post-conviction victim notice of the hearing date and the right to be present and heard if the victim requested notification.

## **Rule 30.6. Disposition**

**(a) Considerations.** The court must consider the following factors:

- (1) the nature and circumstances of the offense the conviction is based on;
- (2) the applicant's compliance with the conditions of probation, the sentence imposed, and the Department of Corrections' rules or regulations, if applicable;
- (3) any earlier or later convictions;
- (4) the victim's input and the status of victim restitution, if any;
- (5) the time that has elapsed since the completion of the applicant's sentence;
- (6) the applicant's age at time of the conviction; and
- (7) any other factor relevant to the application.

**(b) Additional Considerations for Applications Filed Under A.R.S. § 13-925.** On the petition's filing the court must set a hearing. At the hearing, the person must present psychological or psychiatric evidence in support of the petition. The State must provide the court with the person's criminal history records, if any. The court must receive evidence on and consider the following before granting or denying a petition filed by a prohibited possessor under A.R.S. § 13-925:

- (1) the circumstances that resulted in the person being a prohibited possessor as defined in A.R.S. § 13-3101(A)(7)(a), or subject to 18 U.S.C. § 922(d)(4) or (g)(4);
- (2) the person's record, including the person's mental health record and criminal history record, if any;
- (3) the person's reputation based on character witness statements, testimony, or other character evidence;
- (4) whether the person is a danger to self or others or has persistent, acute, or grave disabilities or whether the circumstances that led to the original order, adjudication, or finding remain in effect;

(5) any change in the person's condition or circumstances that is relevant to the relief sought; and

(6) any other evidence deemed admissible by the court.

**(c) Burden of Proof.** The petitioner must prove by clear and convincing evidence the following:

(1) the petitioner is not likely to act in a manner that is dangerous to public safety; and

(2) granting the requested relief is not contrary to the public interest.

**(d) Court Findings.** At the hearing's conclusion, the court must issue findings of fact and conclusions of law.

**(e) Denial.** If the court denies an application, its order must state the reasons for the denial in writing, including any statutory requirements the applicant has not met.

**(f) Subsequent Application.** If an application is denied, the defendant may file a new application after satisfying all requirements or after resolving any other reason for denial.

**(g) Order.** The clerk must transmit the order to the applicant, the prosecutor, and the Department of Public Safety. If the order is a result of an application filed under A.R.S. § 13-925, a copy of the order must be provided to the Supreme Court and the Department of Public Safety. The Supreme Court and the Department of Public Safety must update, correct, modify, or remove the person's record in any database available to the national instant criminal background check system. Within ten court days after receiving the notification from the court, the Department of Public Safety must notify the United States Attorney General that the person no longer falls within the provisions of A.R.S. § 13-3101 (A)(7)(a) or 18 U.S.C. § 922(d)(4) or (g)(4).

**Form 21 Application Upon Discharge to: Restore Civil Rights. Withdraw Guilty  
Plea/Vacate Conviction (Set Aside), Restore Gun Rights**

**Petitioner proposes to abrogate this form in its entirety and renumber Form 21(a) as Form 21.**

**[new] FORM 31(a). Application to Set Aside Conviction**

\_\_\_\_\_ Court \_\_\_\_\_ County, Arizona

STATE OF ARIZONA, Plaintiff	CASE NUMBER:
-VS-	
Defendant (FIRST, MI, LAST)	<p align="center"><b>APPLICATION TO SET ASIDE CONVICTION</b> A.R.S. § 13-907</p> <p><b>Note:</b> Includes application to restore gun and firearm rights pursuant to A.R.S. § 13-907(J)</p>
Date of Birth	
Applicant is: <input type="checkbox"/> Defendant <input type="checkbox"/> Attorney for Defendant <input type="checkbox"/> Probation Officer	

**SECTION I. CONVICTION(S)**

A Judgment of Guilt was entered in the \_\_\_\_\_ Court against me, the defendant, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, on the conviction of:

1. Count I: \_\_\_\_\_
2. Count II: \_\_\_\_\_
3. Count III: \_\_\_\_\_
4. Count IV: \_\_\_\_\_

☐ Additional counts continue on a separate page.

**SECTION II. SENTENCE COMPLIANCE**

1. I was sentenced to: ☐ a term of probation ☐ the Department of Corrections
2. ☐ I completed the conditions of **probation**. The Probation Department's order discharging me from probation is attached to this application, if available.
3. ☐ I have complied with all required terms of the **sentence** (*including all probation, employment, classes, community service, victim restitution or other court ordered monetary obligations, drug/alcohol testing, or other requirements.*)
4. ☐ I have not complied with all terms of my sentence. Explain:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. ☐ I received from the Arizona Department of Corrections a Certificate of Absolute Discharge from Imprisonment AND have attached a copy of that Certificate to this application, if available.
6. Have you paid victim restitution in full? ☐ Yes ☐ No

If not, a set aside of judgment will be denied without a showing of extraordinary circumstances. If you believe you have extraordinary circumstances, explain below. (*Attach documentation you think is relevant for the court's consideration.*)

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7. Have you paid all other court-ordered monetary obligations in this case (criminal fines and fees) in full?

☐ Yes ☐ No

If not, please explain:

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In some circumstances, you may be eligible to apply to the court to mitigate the amount owed or convert monies owed to community restitution.

### **SECTION III. PRIOR SET ASIDE(S)**

1. Have you previously applied to set aside any conviction? ☐ Yes ☐ No

If so, what was the date of your last application? \_\_\_\_\_

2. Have you previously been granted a set aside? ☐ Yes ☐ No  
3. Have you previously been denied a set aside? ☐ Yes ☐ No

### **SECTION IV. PENDING CASES AND ACTIVE WARRANTS**

1. Are there any open criminal cases against you? ☐ Yes ☐ No  
2. Do you have an active warrant? ☐ Yes ☐ No

If yes to either question above, please explain:

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### **SECTION V. OTHER INFORMATION FOR THE COURT**

1. Is there anything you would like the court to consider?

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2. ☐ Attach any other information you would like the court to consider.

List attached documents:

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3. The court may decide on this application without a hearing unless a hearing is requested by you, the prosecutor's office, or the victim. (*Check the box below if you are requesting a hearing.*)

Hearing requested? [ ] Yes [ ] No

**I understand that this application may be denied if information in this application is found to be inaccurate.**

**I understand that even if I am granted the right to possess a gun or firearm under Arizona law, it may not give me the right to possess a firearm under federal law.**

**I declare under penalty of perjury that the information provided in this application and any attachments is true and correct.**

\_\_\_\_\_  
Applicant's Name Printed

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Address

#### **AUTHORIZATION TO PROCEED ON BEHALF OF DEFENDANT**

I authorize \_\_\_\_\_ [ ] Attorney, or [ ] Probation Officer to  
petition the

Superior Court in \_\_\_\_\_ County, to take the above-indicated action.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant's Signature



**[new] Form 31(b) Order Regarding Application to Set Aside Conviction and Restore Gun Rights**

\_\_\_\_\_ Court \_\_\_\_\_ County, Arizona

STATE OF ARIZONA, Plaintiff	CASE NUMBER: <hr/> <p align="center"><b>ORDER REGARDING APPLICATION TO SET ASIDE CONVICTION AND RESTORATION OF GUN RIGHTS</b></p> <p align="center">A.R.S. § 13-907</p>
-VS-	
Defendant (FIRST, MI, LAST)	
Date of Birth	

Based upon the information presented to the Court, **THE COURT FINDS THAT:** (only those items marked)

The prosecutor has received a copy of the Application to Set Aside Conviction.

- ☐ The defendant **has met** all statutory requirements for the application; OR
- ☐ The defendant **has not met** all statutory requirements for the application.
- ☐ The defendant was convicted of a criminal offense not eligible to be set aside due to:
  - ☐ a dangerous offense.
  - ☐ an offense for which the person is required or ordered by the court to register pursuant to A.R.S. § 13-3821.
  - ☐ an offense for which there has been a finding of sexual motivation pursuant to A.R.S. § 13-118.
  - ☐ an offense in which the victim is a minor under fifteen years of age.
  - ☐ an offense in violation of section 28-3473, any local ordinance relating to stopping, standing, or operation of a vehicle, or title 28, chapter 3, except a violation of section 28-693 or any local ordinance relating to the same subject matter as section 28-693.

**IT IS ORDERED:**

- ☐ **GRANTING** the application setting aside the judgment of guilt, dismissing the complaint, information, or indictment, and that the applicant be released from all penalties and disabilities resulting from the conviction **except those imposed by:**
  - a. The **Department of Transportation** pursuant to A.R.S. §§ 28-3304, 28-3305, 28-3306, 28-3307, 28-3308, 28-3312, and 28-3319.
  - b. The **Game and Fish Commission** pursuant to A.R.S. §§ 17-314 or 17-340.
- ☐ The applicant's right to possess a gun or firearm is also **restored**.

**OR**

[ ] The applicant's right to possess a gun or firearm is **DENIED** due to the applicant's conviction for a serious offense as defined in section 13-706.

[ ] **DENYING** the application to set aside conviction for the following reasons:

[ ] The defendant **has not met** all statutory requirements for the application.

[ ] The defendant was convicted of a criminal offense **not eligible** for a conviction to be set aside.

[ ] Other reasons:

\_\_\_\_\_.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Judicial Officer

**[new] Form 32(a). Application to Restore Civil Rights and Gun Rights**

\_\_\_\_\_ Court \_\_\_\_\_ County, Arizona

STATE OF ARIZONA Plaintiff -VS- _____ Defendant (FIRST, MI, LAST) _____ Date of Birth _____ Applicant is: <input type="checkbox"/> Defendant <input type="checkbox"/> Attorney for Defendant <input type="checkbox"/> Guardian	[CASE/COMPLAINT NO.] _____ <b>APPLICATION UPON DISCHARGE TO:</b> (check all that apply) <input type="checkbox"/> <b>RESTORE CIVIL RIGHTS</b> <input type="checkbox"/> <b>RESTORE GUN RIGHTS</b> A.R.S. §§ 13-905, 13-906, 13-908, 13-909, 13-910, 13-911, and 13-912 <input type="checkbox"/> <b>REQUEST FOR RECONSIDERATION</b> (for applications previously denied) <input type="checkbox"/> Civil Rights <input type="checkbox"/> Gun Rights
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**SECTION I. CONVICTION(S)**

A Judgment of Guilt was entered against the me, the defendant, on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, on the conviction of:

1. Count I: \_\_\_\_\_
2. Count II: \_\_\_\_\_
3. Count III: \_\_\_\_\_
4. Count IV: \_\_\_\_\_

☐ Additional counts continue on a separate page.

**SECTION II. STATE CONVICTION** (For federal convictions, see SECTION III.)

☐ A Judgment of Guilt was entered against the me in the Superior Court of Arizona in \_\_\_\_\_ County.

1. ☐ The above stated judgment of guilt and conviction for a felony is my first felony conviction in this or any other state and this application is for restoration of right to possess or carry a gun or firearm only.

**NOTE:** If this is your first felony conviction in this or any other state, any civil rights lost or suspended by the conviction are automatically restored if you completed a term of probation or received an absolute discharge from imprisonment and paid any fine or restitution imposed; however, your right to possess or carry a gun or firearm requires an application under this rule. Refer to **Section VII** of this application.

2. ☐ I completed the conditions of probation. The Probation Department's order discharging me from probation is in the court file or attached to this form.

3. ☐ I received from the Arizona Department of Corrections a Certificate of Absolute Discharge from Imprisonment on a date two (2) or more years before today's date, AND have attached a copy of Certificate to this petition.
4. ☐ I have complied with all required terms of probation (including all employment, classes, community restitution, victim restitution or other court ordered monetary obligations, drug/alcohol testing, or other requirements.)
5. ☐ I have not complied with all terms of my sentence. Explain:  

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<b>SECTION III. FEDERAL CONVICTION</b> (for state convictions, see SECTION II.)
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- ☐ A Judgment of Guilt was entered against the me in United States District Court for the District of \_\_\_\_\_. On the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_:
1. ☐ The above stated judgment of guilt and conviction for a felony is my first felony conviction in this or any other state and this application is for restoration of right to possess or carry a gun or firearm only.  
**NOTE:** If this is your first felony conviction in this or any other state, any civil rights lost or suspended by the conviction are automatically restored if you completed a term of probation or received an absolute discharge from imprisonment and paid any fine or restitution imposed; however, your right to possess or carry a gun or firearm requires an application under this rule. Refer to **Section VII** of this application.
  2. ☐ I was sentenced to and successfully served a term of federal probation, received an Affidavit of Discharge from the judge who discharged me from probation, **AND** have attached a copy to this petition completed the conditions of probation.
  3. ☐ I was sentenced to and successfully served a federal prison term and received from the Federal Bureau of Prisons a Certificate of Absolute Discharge, or other official documentation provided by the Bureau of Prisons that indicates successful discharge from Imprisonment on a date two (2) or more years before today's date, **AND** I have attached a copy of the Certificate.
  4. ☐ I have complied with all required terms of probation (including all employment, classes, community restitution, victim restitution or other court ordered monetary obligations, drug/alcohol testing, or other requirements.)
  5. ☐ I have not complied with all terms of probation. Explain:  

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**SECTION IV. VICTIM RESTITUTION AND COURT ORDERED MONETARY OBLIGATIONS**

1. Have you paid victim restitution in full? [ ] Yes [ ] No

If no, a restoration of rights will be denied without a showing of extraordinary circumstances. If you believe you have extraordinary circumstances explain below. (*Attach documentation you think is relevant for the court's consideration.*)

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2. Have you paid all other court-ordered monetary obligations in this case (criminal fines and fees) in full? [ ] Yes [ ] No

If not, please explain:

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In some circumstances you may be eligible to apply to the court to mitigate the amount owed or convert monies owed to community restitution (State offenses only, not for Federal convictions).

**SECTION V. PRIOR RESTORATION OF RIGHTS**

1. Have you previously applied to have your rights restored? [ ] Yes [ ] No

If so, what was the date of your last application? \_\_\_\_\_

2. Have you been granted the restoration of your rights previously? [ ] Yes [ ] No

3. Have you been denied the restoration of your rights previously? [ ] Yes [ ] No

**SECTION VI. PENDING CASES AND ACTIVE WARRANTS**

1. Are there any open criminal cases against you? [ ] Yes [ ] No

2. Do you have an active warrant? [ ] Yes [ ] No

If yes to either question above, please explain:

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## SECTION VII. RESTORATION OF FIREARM RIGHTS

**NOTE: Arizona Revised Statutes require:** If the person was convicted of an offense which would be a dangerous offense under section 13-704, the person may not file for the restoration of the right to possess or carry a gun or firearm. If the person was convicted of an offense which would be a serious offense as defined in section 13-706, the person may not file for the restoration of the right to possess or carry a gun or firearm for **ten years** from the date of the person's absolute discharge from imprisonment or discharge from probation. If the person was convicted of any other felony offense, the person may not file for the restoration of the right to possess or carry a gun or firearm for **two years** from the date of the person's absolute discharge from imprisonment or discharge from probation.

1. ☐ I was convicted of a felony offense not listed in A.R.S. §§ 13-704 or 13-706 and it has been **two** years since absolute discharge from imprisonment or probation
2. ☐ I was convicted of a serious offense as defined in A.R.S. § 13-706 and it has been **ten** years since absolute discharge from imprisonment or probation
3. ☐ I was convicted of a dangerous offense as defined in A.R.S. § 13-704. (if yes, you are not eligible to file for restoration of the right to possess or carry a gun or firearm.)

If you are requesting that your civil right to possess a gun or firearm be restored, please write your reasons for the request below:

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I understand that even if I am granted the right to possess a gun or firearm under Arizona law, it may not give me the right to possess a gun or firearm under federal law.

## SECTION VIII. OTHER INFORMATION FOR THE COURT

Is there anything you would like the court to take into consideration?

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☐ Attached is other pertinent documentation. List attached documents:

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**I understand that this application may be denied if information in this application is found to be inaccurate.**

**Under Oath I swear or affirm, under penalty of perjury, the information provided in this application is to the best of my knowledge true and correct.**

\_\_\_\_\_  
Defendant's Name Printed

\_\_\_\_\_  
Defendant's Signature

\_\_\_\_\_  
Address

**OR**

**To the best of my knowledge, the information provided in this application is true and correct.**

\_\_\_\_\_  
Attorney's Name Printed

\_\_\_\_\_  
Attorney's Signature

\_\_\_\_\_  
Attorney's Address

**AUTHORIZATION TO PROCEED ON BEHALF OF DEFENDANT**

I authorize my Attorney, \_\_\_\_\_ to petition the Superior Court in \_\_\_\_\_ County, to take the above-indicated action.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant's Signature

**[new] Form 32(b). Order Regarding Application to Restore Civil Rights and Gun Rights**

\_\_\_\_\_ Court \_\_\_\_\_ County, Arizona

STATE OF ARIZONA, Plaintiff -vs- _____ Defendant (FIRST, MI, LAST) _____ Date of Birth	CASE NUMBER: _____  <p style="text-align: center;"><b>ORDER REGARDING APPLICATION TO RESTORE CIVIL RIGHTS AND/OR RIGHT TO POSSESS OR OWN A GUN OR FIREARM</b></p>
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Based on the information presented to the Court, **THE COURT FINDS:** (only those items marked)

The prosecutor has received a copy of the Application to Restore Civil Rights and/or Right to Possess or Own A Gun or Firearm.

- ☐ The Defendant **has met** all of the statutory requirements for the application to restore civil rights and to possess or own a gun or firearm.
- ☐ The Defendant **has not met** all of the statutory requirements for the application to possess or own a gun or firearm including:
  - ☐ The Defendant was convicted of a **dangerous** offense as defined in A.R.S. § 13-704.
  - ☐ The Defendant was convicted of a **serious** offense as defined in A.R.S. § 13-706 and **less than ten years** have passed from the date of discharge from probation or prison.
  - ☐ The Defendant was convicted of any other felony offense and **less than two years** have passed from the date of discharge from probation or prison.

**IT IS ORDERED:**

- ☐ GRANTING the application to restore civil rights **and** right to possess or own a gun or firearm.
- ☐ GRANTING the application to restore civil rights **excluding** the right to possess or own a gun or firearm.
- ☐ GRANTING the application to restore the right to possess or own a gun or firearm.
- ☐ DENYING the application to restore civil rights and right to possess or own a gun or firearm for the following reasons:
  - ☐ The applicant **has not met** all statutory requirements for the application (as noted above):
  - ☐ Other reasons: \_\_\_\_\_.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Judicial Officer